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cylinder having a ram movably disposed within the hydraulic cylinder communicating an opening force and a closing force to the door member.

64. The door frame assembly of claim 63 and further comprising a truss, the truss externally mountable to the bottom horizontal end of the door, the truss supporting the bottom horizontal end.

REMARKS

This Amendment After Final is submitted in response to the final Office Action mailed on January 23, 2003, in which claims 36-64 were pending. In the Office Action, claims 49, 52-54, 57 and 60 were rejected under 35 U.S.C. §102(b) as being anticipated by Andresen, U.S. Pat. No. 4,294,055 ("The Andresen patent"). Additionally, claims 36-64 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Andresen patent in combination with one or more of the following patents: Wentzel, U.S. Pat. No. 4,643,239 ("The Wentzel patent"); Mursinna, U.S. Pat. No. 3,468,060 ("The Mursinna patent"); and d'Haveloose, Belgium Pat. No. 519,853 (the d'Haveloose patent). With this Amendment, claims 36, 49, and 57 are amended to clarify the claimed invention. With this Amendment and in consideration of the arguments presented below, this application is in condition for allowance. Reconsideration and notice to that effect is respectfully requested.

Claim Rejections Under 35 U.S.C. §102(b)

In the Office Action, the Examiner rejected claims 49, 52-54, 57 and 60 under 35 U.S.C. § 102(b) as being anticipated by the Andresen patent. According to the Examiner, the Andresen patent

discloses an overhead door assembly comprising a door panel (10) having a bottom member (16), first and second vertical side members (18 and 20), and a top member (14), hinging support members (66, 70, 72 and 74) connected to a top portion of the door panel (10), and a truss (27 and 28) supporting a bottom member 16."

January 23, 2003 final Office Action, p. 2. Further, in response to Applicant's arguments presented in the Response filed on November 18, 2002, the Office Action states

"The applicant argues that Andresen fails to disclose an external truss. Andresen clearly discloses an external truss in honeycomb elements 27 and 28 and they are at an end/external portion of the panel. Andresen broadly discloses an external truss. The applicant has failed to specifically define the claimed truss to read over Andresen."

1/23/03 final Office Action, p. 5. However, Applicant respectfully disagrees with this construction of the Andresen patent.

Andresen discloses a door having a honeycomb core 22 positioned within the door "so as to impart rigidity and resistance to bending of the door when it is supported at opposite edges in a horizontal position." *See* Andresen, Col. 3, lines 21-25. Specifically, Andresen discloses

"The door is covered on its opposite surfaces with covering sheets 26 and 28. The door illustrated in FIGS. 1 and 2 is of dimensions which exceed the single sheet dimensions of the covering sheets and, accordingly, a plurality of sheets such as 30, 32 and 34, are employed on each side of the panel. When multiple sheets are employed on each side of the panel, it is desirable to employ internal stiffeners or splines as bracing in the door construction. Desirably, such internal bracing is also of a lightweight, honeycomb core structure such as illustrated by stiffening members 34 and 36. Each stiffening member comprises a **honeycomb core 38** which is covered by opposite strips 40 of the sheet material to form a very rigid and lightweight beam. The construction of these internal stiffeners can be seen in the sectional view of FIG. 2 where the horizontal stiffener member 34 is shown to have opposite webs 40 separated by a honeycomb core 38."

See Andresen, Col. 3, lines 26-43 (emphasis added). Thus, the honeycomb core structure serves as an "internal stiffener" and provides *internal* bracing for the door. Additionally, the Andresen patent discloses that the covering sheet itself can have a honeycomb construction as follows:

"The covering sheet can, itself, have a honeycomb construction. This construction would employ **two, thin, covering sheets with a sandwiched honeycomb core** and the final door will then be formed as a honeycomb laminate with two honeycomb cores separated by a thin covering sheet. FIG. 3 illustrates this construction wherein a portion of a door is shown in cross-sectional view.

Col. 4, lines 16-23. Thus, the honeycombed sheet 28 has a honeycombed core sandwiched between two thin sheets. The honeycombed core is sandwiched, meaning positioned between the thin sheets, thereby making the bracing structure *internal* to the covering sheet 28 and to the door.

Finally, the honeycomb core 22 can be bonded to the covering sheet 26 as follows:

The door has a **honeycomb core 22 bonded, at its opposite sides, to covering sheet 26** which can be a three or five plywood veneer and to a **honeycombed sheet 28**. The latter is an assembly of opposite, thin sheets 23 and 25, which can be formed of any of the aforementioned sheet material or can be paper such as that previously described as useful to form the honeycomb cores. The **honeycomb core 27 is similar to the aforescribed honeycomb cores** and can have a thickness from 10 to about 100 percent of that of core 22. Any suitable adhesive can be used in bonding core 27 and sheets 25 and 27 and, if desired, the assembly can be impregnated with a resin for improved stiffness and moisture resistance."

See Andresen, Col. 4, lines 23-36 (emphasis added). Applicant notes that the honeycomb core is variously labeled by reference numerals 34 and 36 (at col. 3, lines 35-36), 27 (at col. 4, line 30), 22 (at col. 4, line 23), and 38 (at col. 3, line 43). In each instance, the honeycomb core is positioned **inside** the door frame and between covering sheets or inside layers of the covering sheet 28.

Apparently, the Andresen patent is being interpreted such that the covering sheet 28 with the honeycomb core 27, disposed between the thin layers of the covering sheet, combine to form an "external truss". However, this interpretation is contrary to the explicit language of the specification, which teaches that the honeycomb core is the element that imparts the rigidity and the resistance to bending. A honeycomb core that is disposed inside the door and a honeycomb core disposed inside of a cover sheet are "internal" stiffening members. Moreover, the Andresen patent specifically states that the door "should be rigid and non-sagging when supported over head from its opposite ends, preferably without the employment of truss rods and similar hardware." *See* Col. 1, lines 46-49. Thus, the Andresen patent teaches away from the use of an external truss.

A claim is anticipated under 35 U.S.C. §102(b) "only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art

reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628,631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); and see M.P.E.P. §2131.

Independent claims 49 and 57 include "means for fixedly mounting the top horizontal end of the door member to support a structure"

As amended, independent claims 49 and 57 read as follows:

49. (Amended) An overhead door for a building having an opening to be closed by the door, the door having a vertical closed position and a horizontal open position and the door having dimensions that are substantially equal to the building opening, comprising:

a one-piece door member having a thickness including top and bottom horizontal ends and first and second vertical sides; means for fixedly mounting the top horizontal end of the door member to a support structure; means for mounting to the door member a mechanism adapted and configured to open and close the door member; and an external truss fixedly attached to an outside face of the door member and supporting the bottom horizontal end of the door member.

57. (Amended) An overhead door having a vertical closed position and a horizontal open position provided in a building having an opening to be closed by the door, the overhead door having dimensions that are substantially equal to the building opening, comprising:

a one-piece door member having a thickness including top and bottom horizontal ends and first and second vertical sides; means for fixedly mounting the top horizontal end of the door member to a support structure; means for mounting to the door member a mechanism adapted and configured to open and close the door member; and an external truss fixedly mounted to an outside face of the door member and supporting the bottom horizontal end of the door member.

Claim 57 and claim 49 (with this amendment) include "means for fixedly mounting the top horizontal end of the door member to a support structure". This element is not taught, disclosed or suggested by the Andresen patent. Andresen discloses

"The channel members 58 and 62 also serve to provide the structural support for the door hardware such as mounting brackets 64 which are in the shape of angle brackets bearing pivotal supports for the door hardware such as the hinge arm 66 and spring 68. The angle member 64 is shown as also bearing an arm 70 to which is pivotally secured arm 72; arms 66, 72 and spring 68 extending to pivotal connections on frame bracket 74 that is mounted on the frame 76 of the door opening. The hinges of this construction thereby provide end support for the door in the closed and open position. When the door is open, as illustrated, **the hinges provide supports at opposite ends of the door** which extends in a horizontal position therebetween."

Col. 5, line 63-Col. 6, line 8 (emphasis added). This structure is illustrated in FIG. 4 of Andresen, which illustrates means for attaching the sides of the door to the support structure, and not the "top horizontal end of the door member" disclosed in claims 49 and 57. Thus, Andresen fails to teach, suggest or disclose this element of independent claims 49 and 57.

Furthermore, as amended, both independent claims 49 and 57 state "an external truss fixedly mounted to an outside face of the door member". The phrase "to an outside face" does not constitute new matter because it is taken directly from the specification at page 8, lines 3-4 and page 13, lines 8-9. The Andresen patent does not teach, suggest or disclose an "external truss" "attached" or "mounted" "to an outside face of the door member"; therefore, the Andresen patent does not teach, suggest or disclose every element of independent claims 49 and 57. Independent claims 49 and 57 are allowable over the Andresen patent, and reconsideration and notice to that effect is respectfully requested.

Claims 52-54 depend from claim 49, and claim 60 depends from claim 57. As previously discussed, claims 49 and 57 are allowable over the Andresen patent because the Andresen patent does not teach, suggest or disclose all the elements of independent claims 49 and 57. Therefore, claims 52-54 and 60 are allowable over the Andresen patent. Reconsideration and notice to that effect is respectfully requested.

Claim Rejections Under 35 U.S.C. §103(a)

A. The Andresen patent in view of the Wentzel patent

In the Office Action, the Examiner rejected claims 50, 51, 55, 56, 58, and 59 as being unpatentable over the Andresen patent in view of the Wentzel patent. Claims 50, 51, 55 and 56 depend from independent claim 49, and claims 58 and 59 depend from independent claim 57. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

The Wentzel patent is cited for "weatherstripping around the periphery of the closure"; however, the Wentzel patent is directed to a different art from the present invention. Specifically, the Wentzel patent is directed to "an overhead sectional door suitable for use with capped pickup trucks." See Wentzel, Abstract, lines 1-2; *see also* FIG. 1. The Wentzel patent discloses

"In FIG. 1, there is illustrated the rear view of a **capped pickup** in accordance with the invention. 10 is the door frame and 12 is the door. The door frame is shaped to rest on the side walls of the truck body at 14 and to extend down into the tailgate receptor at 16 to the truck bed at 18.

The door opening has a bottom side portion 20 which extends upwardly parallel to the side wall of the truck body coincident with the tailgate receptor 16, and a top section 20a which extends upwardly to the top of the door opening. The side portions 20 and 20a can be aligned vertically, as shown in FIG. 1, or the top portion 20a can be inclined inwardly, as shown in FIG. 6, in which case, it extends parallel to the side 24 of the door frame 10.

Advantageously, suitable molding 26 may be provided around the outer edges of the door frame 10 which abuts the truck body and around the edges of the door frame."

Col. 3, lines 22-40. While the Wentzel patent does disclose "suitable molding 26", which the Office Action characterizes as "weatherstripping", the door of the Wentzel patent bears little relation to the overhead door of the present invention. A door provided in the back of a capped pickup truck does not experience the same structural stresses as an overhead door such as provided by the present

invention. Specifically, the size of the Wentzel "overhead door" is necessarily limited by the size of the pickup truck's cap and the weight capacity of the truck. Moreover, the molding in the Wentzel patent is required by virtue of the varying conditions through which the pickup truck may be driven.

The Andresen patent, on the other hand, is directed to an overhead door in a fixed structure. The disclosure of the Andresen patent is directed to a "lightweight structural panel" for use "as an overhead door, typically a garage door", as an alternative to the "heavy and massive doors" of the prior art. *See* Andresen, Col. 1, lines 9-54. Thus, it would not have been obvious to a worker skilled in the art of heavy and massive doors, such as garage doors, to look to the doors of a pickup truck cab to make the suggested combination.

Moreover, the Office Action's stated motivation "to seal around and between an opening in a structure and the panel thereby sealing the building structure from the environment" is not suggested by the Andresen patent. Applicant submits that the Wentzel patent is directed to a different art, namely pickup cap doors, not garage doors. Any suggestion to seal the pickup cap door against the environment is motivated by a different problem, namely that the vehicle may be driven through a variety of weather conditions, requiring such a seal. Therefore, the motivation to provide such a seal is nothing more than a hindsight reconstruction based on the Applicant's disclosure. The Examiner's stated motivation is not supported by the references.

Additionally, the Wentzel patent discloses guide means (guide rollers 42 and guide frames 44) mounted on frame member 36 via bracket 46. *See* Col. 3, lines 54-58. It is understood that these guide frames 44 are mounted on the sides of the door. *See* FIGS. 1 and 3. Thus, like Andresen, the Wentzel patent does not teach, suggest or disclose "means for fixedly mounting the top horizontal end of the door member to a support structure", which is an element of independent claims 49 and 57, from which claims 50, 51, 55, 56, 58, and 59 depend. Therefore, the cited references either alone or in combination fail to teach, suggest or disclose every element of the claimed invention. Independent claims 49 and 57 are allowable over the cited combination, and

therefore dependent claims 50, 51, 55, 56, 58, and 59 are also allowable over the cited references. Reconsideration and notice to that effect is respectfully requested.

Finally, if an independent claim is non-obvious under 35 U.S.C. §103(a), then any claim depending therefrom is similarly non-obvious. *See In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Since neither independent claim 49 nor independent claim 57 were rejected as being unpatentable over the Andresen patent in view of the Wentzel patent, dependent claims 50, 51, 55, 56, 58, and 59 cannot be rejected over the combination. This rejection is improper and should be withdrawn. Claims 49-51, 55, 56, and 57-59 are allowable over the cited combination. Reconsideration and notice to that effect is respectfully requested.

B. The Andresen patent in view of the d'Haveloose patent

Claim 62 was rejected under 35 U.S.C. §103(a) as being unpatentable over the Andresen patent in view of the d'Haveloose patent. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

The Office Action states

"All of the elements of the instant invention are discussed in detail above except providing a ground anchoring device. Belgium patent to D'Haveloose discloses a ground anchoring device having a plate which mounts or bolts to support vertical members. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Andresen with a ground anchoring assembly as taught by d'Haveloose since bolts anchored to the ground improves the rigidity of the vertical support members.

See Office Action, page 3.

The d'Haveloose patent discloses a door 1 attached to tubes 2,3, which connect the door 1 to a hinge 11. The hinge 11 is supported by a column 7, which is attached to the ground via

a base 18. *See* FIGS. 1 and 2. The tubes 2,3 appear to be part of a larger structure, apparently equal in size to the door, and bearing a counter weight 6 for assisting in opening the door.

Claim 62 reads as follows:

62. A door frame assembly separate from a building, the building having an opening to be closed by a door, the frame supporting the door only and positioned proximate the opening and having dimensions that are substantially equal to the opening, the door frame comprising:
a horizontal member;
first and second vertical members fixedly mounted to either end of the horizontal member;
an anchoring plate disposed on each vertical member, the anchoring plate capable of anchoring the frame.

The Andresen patent discloses that the "arms 66,72 and the spring 68" extend "to pivotal connections on frame bracket 74 that is mounted on the frame 76 of the door opening." *See* Col 6, lines 1-3. Thus, the door in the Andresen patent is mounted to brackets on the frame of the door opening, whereas the door frame assembly (according to claim 62) of the present invention is "separate from a building". The d'Haveloose patent discloses a door structure mounted to a hinged support that appears to be separate from the door frame; however, the support structure of the d'Haveloose patent apparently ends at the hinge, and includes no "horizontal member". It is unclear whether the Andresen patent includes such a horizontal member, but in the Andresen patent the support structure is the frame of the opening. However, even assuming (arguendo) that the Andresen patent includes such a horizontal member, there is no suggestion or motivation to make the asserted combination.

The Office Action asserts a motivation to combine that reads as follows:

"It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Andresen with a ground anchoring assembly as taught by d'Haveloose since **bolts anchored to the ground improves the rigidity of the vertical support members.**"

Office Action, p. 3 (emphasis added). This assertion is without support in the references. Neither the Andresen patent nor the d'Haveloose patent assert that bolts "improve the rigidity of the vertical support members". In fact, the bolts may improve the stability of the support members, but it is

unclear how such bolts would improve "rigidity". Moreover, it is not at all clear how such bolts would improve the stability or rigidity of the frame of the opening in the Andresen patent, or why a horizontal member would be added to the support members of d'Haveloose. In either case, the addition would be superfluous to the structure. Thus, the claimed combination is illogical.

Not only would the combination be illogical, the Andresen patent teaches away from the structure of the d'Haveloose patent. Specifically, given the large counterbalancing structure shown in FIGS. 1 and 2 of the d'Haveloose patent, the Andresen patent teaches away from the combination. In the background section, the Andresen patent discloses

"Structural panels which have, heretofore, been used for garage doors in residential housing have been formed with wood framing and internal bracing and covered on one or both sides with heavy exterior plywood or similar construction material. **This results in heavy and massive doors which require massive springs and hinges for their operation.** The stiffness-to-weight ratio of the materials employed in construction of such doors is generally inadequate to provide a panel which resists sagging or bending when supported in the open, horizontal position on hinges located at the opposite ends of the panel. Accordingly, most of the panels must be additionally braced by truss rods which extend between the opposite ends of the door, thereby adding to the complexity and weight of the panel. **The massive springs employed to balance the door so that it can be readily opened are a hazard to persons and property since failure of the springs or the associated hardware often results in hardware fragments being projected into the garage.**"

Col. 1, lines 14-33. The counterbalancing structure shown in FIGS. 1 and 2 of the d'Haveloose patent is precisely the type of "massive spring employed to balance the door" that the Andresen patent is directed to eliminating. Therefore, there is no motivation to combine the Andresen patent with the d'Haveloose patent. Claim 62 is allowable over the cited combination. Reconsideration and notice to that effect is respectfully requested.

C. The Andresen patent and the d'Haveloose patent, in further view of the Mursinna patent

Claims 63 and 64 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Andresen patent and the d'Haveloose patent in view of the Mursinna patent. The Office Action states

"all of the elements of the instant invention are discussed in detail above except providing an operator in the form of a hydraulic cylinder which opens and closes the door panel. Mursinna discloses a door assembly having a 3-way hydraulic cylinder which operates the door to an opened and closed position. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Andresen with an automatic door assembly as taught by Mursinna since an automatic door assembly allows one to easily operate the door to an opened and closed position."

Office Action, page 3. Applicant respectfully disagrees. Specifically, as previously discussed, there is no motivation to combine the teachings of Andresen with d'Haveloose. Moreover, the structural differences between the support of the d'Haveloose patent relative to the frame support of the Andresen patent make such a combination illogical. Finally, stated motivation is without support in the cited references.

While the Mursinna patent does in fact disclose an hydraulic motor, it is unclear why the addition of such a motor would be necessary in the Andresen patent, as the whole point of the Andresen patent is to replace the massive and heavy prior art doors with lighter doors. *See* Col. 1, lines 9-49. Moreover, like the bracket of the Andresen patent, the Mursinna patent discloses that the "door 12 is supported from a structure 10 by a pair of four-bar type, manual door operators 16". In other words, just like the door in the Andresen patent, the door in the Mursinna patent is attached to the frame of the opening itself.

There is no motivation to combine the Mursinna patent with the Andresen and the d'Haveloose patents. Specifically, the Mursinna patent uses a hydraulic motor to lift the door, the d'Haveloose patent uses a counterbalance to assist in lifting the door, and the Andresen patent is directed to making a lighter door so that counterbalances and heavy springs are no longer required.

While the applicant agrees that the automatic door assembly "allows one to easily operate the door to an opened and closed position", the combination of references fails to teach all the elements of claim 62. Specifically, none of the cited references teach, suggest or disclose the horizontal member, first and second vertical members fixedly mounted to either end of the horizontal member, and an anchoring plate. More specifically, while the Andresen and the Mursinna patents disclose a horizontal member across the top of the frame of the building opening, the frame is not separate from the building and plays no role in the door opening structure.

Therefore, it would not have been obvious to combine the Andresen patent, the d'Haveloose patent and the Mursinna patent. Moreover, the combination would require picking and choosing between various different elements from the cited references, and it is not at all obvious what role a horizontal member would have if the references were in fact combined. Absent a legitimate motivation to make this combination, the rejection is nothing more than a hindsight reconstruction based on the Applicant's disclosure. Claims 63 and 64 are allowable over the cited references. Reconsideration and notice to that effect is respectfully requested.

D. The Andresen patent in view of the Mursinna patent

Claims 36, 38-41, 43-45, 48 and 61 were rejected under 35 U.S.C. §103(a) as being unpatentable over Andresen in view of Mursinna. Claims 38-41, 43-45 and 48 depend from independent claim 36, and claim 61 depends from independent claim 57. Independent claims 36 and 57 read as follows:

36. (Amended) An overhead door assembly for a building having an opening to be closed by a door, the door assembly having a vertical closed position and a horizontal open position and the door assembly having dimensions that are substantially equal to the building opening, comprising:

a frame, comprising a horizontal support member and first and second vertical members fixedly mounted to either end of the horizontal member, the vertical members fixedly mounted to a ground portion;

a one-piece door member having a thickness including top and bottom horizontal ends and first and second vertical sides, the top horizontal end of the door member pivotally

mountable to the horizontal member of the frame and the door member movable from the closed position to the open position about the pivot point;
a hydraulic cylinder comprising a first end and a second end, the first end pivotally mountable to a portion of either one of the first and second vertical members, and the second end pivotally mountable to the door member, the hydraulic cylinder having a ram movably disposed within the hydraulic cylinder communicating an opening force and a closing force to the door member; and
a truss externally mounted to an outside face of the bottom horizontal end of the door member, the truss supporting the bottom horizontal end.

57. (Amended) An overhead door having a vertical closed position and a horizontal open position provided in a building having an opening to be closed by the door, the overhead door having dimensions that are substantially equal to the building opening, comprising:

a one-piece door member having a thickness including top and bottom horizontal ends and first and second vertical sides;
means for fixedly mounting the top horizontal end of the door member to a support structure;
means for mounting to the door member a mechanism adapted and configured to open and close the door member; and
an external truss fixedly mounted to an outside face of the door member and supporting the bottom horizontal end of the door member.

(emphasis added). Both the Andresen patent and the Mursinna patent teach mounting the sides of the door to the vertical sides of the frame (*See* Andresen, Fig. 4 and *see* Mursinna, Figs. 1-3 and 7). Thus, neither reference teaches "means for fixedly mounting the top horizontal end of the door member to a support structure".

Additionally, as previously discussed, the Andresen patent teaches internal honeycomb stiffeners, and does not teach, suggest or disclose an "external truss fixedly mounted to an outside face of the door member". Mursinna makes no mention of such an external truss. Therefore, the cited combination does not teach, suggest or disclose at least two of the elements of

claims 36 and 57. Independent claims 36 and 57 are allowable over the cited combination. Claims 38-41, 43-45, 48 and 61 depend from either claim 36 or 57. Since the combination of Mursinna and Andresen does not teach, suggest or disclose all the elements of independent claims 36 and 57, the combination does not teach, suggest or disclose all the elements of claims 38-41, 43-45, 48 and 61. Therefore, claims 36, 38-41, 43-45, 48, 57 and 61 are allowable over the cited combination. Reconsideration and notice to that effect is respectfully requested.

E. The Andresen patent and the Mursinna patent in further view of the Wentzel patent

Claims 37 and 42 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Andresen patent in view of the Mursinna patent, and in further view of the Wentzel patent. Claims 37 and 42 depend from claim 36, which reads as follows:

36. (Amended) An overhead door assembly for a building having an opening to be closed by a door, the door assembly having a vertical closed position and a horizontal open position and the door assembly having dimensions that are substantially equal to the building opening, comprising:

a frame, comprising a horizontal support member and first and second vertical members fixedly mounted to either end of the horizontal member, the vertical members fixedly mounted to a ground portion;

a one-piece door member having a thickness including top and bottom horizontal ends and first and second vertical sides, **the top horizontal end of the door member pivotally mountable to the horizontal member of the frame** and the door member movable from the closed position to the open position about the pivot point;

a hydraulic cylinder comprising a first end and a second end, the first end pivotally mountable to a portion of either one of the first and second vertical members, and the second end pivotally mountable to the door member, the hydraulic cylinder having a ram movably disposed within the hydraulic cylinder communicating an opening force and a closing force to the door member; and

a truss externally mounted to an outside face of the bottom horizontal end of the door member, the truss supporting the bottom horizontal end.

Each of the cited references teaches pivotal attachment of the door to the vertical supports along the side of the door (*See* Andresen, FIG. 4; Mursinna, FIG. 3; and Wentzel, FIGS. 1 and 3). None of the cited references teach, suggest or disclose "the top horizontal end of the door member pivotally mountable to the horizontal member of the frame", which is an element of independent claim 36. Moreover, none of the cited references teach, suggest or disclose "a truss externally mounted to an outside face of the bottom horizontal end of the door member". Thus, claim 36 is allowable over the cited combination. Claims 37 and 42, which depend from allowable independent claim 36, are also not suggested, taught or disclosed by the cited combination. Claims 37 and 42 are allowable over the combination, and reconsideration and notice to that effect is respectfully requested.

Finally, there is no support for the alleged motivation to combine these references. Specifically, since the Wentzel patent is directed to doors in the back of a pickup cap, as previously discussed there is no teaching or suggestion in the overhead door references to combine the Wentzel patent with the Andresen and the Mussina patents. Thus, the stated motivation is nothing more than a hindsight reconstruction based on the Applicant's disclosure. The rejection of claims 37 and 42 should be withdrawn. Reconsideration and notice to that effect is respectfully requested.

F. The Andresen patent and the Mursinna patent in further view of the d'Haveloose patent

Claims 46 and 47 were rejected under 35 U.S.C. §103(a) as being unpatentable over the Andresen patent in view of the Mursinna Patent, and in further view of the d'Haveloose patent. Each of the cited references teaches pivotal attachment of the door to the vertical supports along the side of the door (*See* Andresen, FIG. 4; Mursinna, FIG. 3; and d'Haveloose, FIGS. 1, 2 and 7). None of the cited references teach, suggest or disclose "the top horizontal end of the door member pivotally mountable to the horizontal member of the frame", which is an element of independent claim 36 (In fact, the d'Haveloose patent's frame does not even have a horizontal member of the frame). Moreover, none of the cited references teach, suggest or disclose "a truss externally mounted to an outside face of the bottom horizontal end of the door member". Thus, claim 36 is allowable over the cited combination.

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Claims 46 and 47 depend from independent claim 36. As previously discussed, claim 36 is allowable over the cited combination. Therefore, claims 46 and 47 are allowable over the cited combination. Reconsideration and notice to that effect is requested.

Conclusion

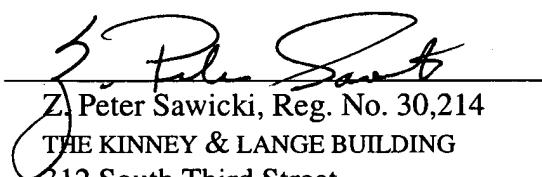
In view of these comments and amendments, it is believed that the present application is in condition for allowance. Applicant respectfully requests reconsideration and allowance of claims 36-64. The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

Respectfully submitted,

KINNEY & LANGE, P.A.

Date: March 11, 2003

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APPENDIX:

MARKED UP VERSION OF SPECIFICATION AND CLAIM AMENDMENTS

Please amend claims 36, 49 and 57 as follows:

36. (Amended) An overhead door assembly for a building having an opening to be closed by a door, the door assembly having a vertical closed position and a horizontal open position and the door assembly having dimensions that are substantially equal to the building opening, comprising:

 a frame, comprising a horizontal support member and first and second vertical members fixedly mounted to either end of the horizontal member, the vertical members fixedly mounted to a ground portion;

 a one-piece door member having a thickness including top and bottom horizontal ends and first and second vertical sides, the top horizontal end of the door member pivotally mountable to the horizontal member of the frame and the door member movable from the closed position to the open position about the pivot point;

 a hydraulic cylinder comprising a first end and a second end, the first end pivotally mountable to a portion of either one of the first and second vertical members, and the second end pivotally mountable to the door member, the hydraulic cylinder having a ram movably disposed within the hydraulic cylinder communicating an opening force and a closing force to the door member; and

 a truss externally mounted to an outside face of the bottom horizontal end of the door member, the truss supporting the bottom horizontal end.

49. (Amended) An overhead door for a building having an opening to be closed by the door, the door having a vertical closed position and a horizontal open position and the door having dimensions that are substantially equal to the building opening, comprising:

 a one-piece door member having a thickness including top and bottom horizontal ends and first and second vertical sides;

 means for fixedly mounting the top horizontal end of the door member to a support [a] structure;

 means for mounting to the door member a mechanism adapted and configured to open and close the door member; and

 an external truss[, the external truss] fixedly attached to an outside face of the door member and supporting the bottom horizontal end of the door member.

57. (Amended) An overhead door having a vertical closed position and a horizontal open position provided in a building having an opening to be closed by the door, the overhead door having dimensions that are substantially equal to the building opening, comprising:

APPENDIX:
MARKED UP VERSION OF SPECIFICATION AND CLAIM AMENDMENTS

a one-piece door member having a thickness including top and bottom horizontal ends and first and second vertical sides;
means for fixedly mounting the top horizontal end of the door member to a support structure;
means for mounting to the door member a mechanism adapted and configured to open and close the door member; and
an external truss[, the external truss] fixedly mounted to an outside face of the door member and supporting the bottom horizontal end of the door member.